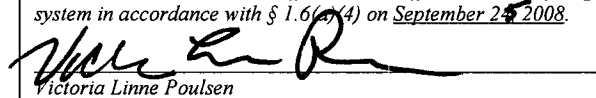


## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

**DEUTSCH et al.**Application No.: **10/564,802**Filed: **April 2, 2007**For: **SPORTS TRAINING AND  
TESTING METHODS,  
APPARATUS AND SYSTEM**Conf. No.: **3413**Art Unit: **3629**Examiner: **THOMPSON, Michael M.**Docket No.: **067782-5001-US***Certificate of Transmission (37 C.F.R. § 1.8)**I hereby certify that this correspondence is being transmitted to the  
U.S. Patent and Trademark Office via the Office electronic filing  
system in accordance with § 1.6(a)(4) on September 24, 2008.*  
Victoria Linne Poulsen**REQUEST FOR CORRECTED FILING RECEIPT**Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a copy of the official Filing Receipt for the above-identified patent application with the corrections noted thereon. Please correct the filing receipt as follows:

In the **Applicant(s)** section, correct the first named inventor as follows:

--Markus ~~Makus~~ Deutsch, Toowong, AUSTRALIA--.

In the **Power of Attorney** section, correct the customer number as follows:

--The patent practitioners associated with Customer Number ~~32940~~ 67374--.

In the **Title** section, correct the title as follows:

--Sports Training And Testing Methods, ~~Apparatus~~ Apparatus And System--.

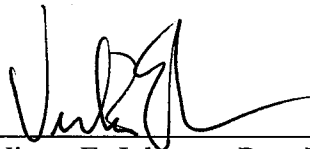
Also submitted herewith is a copy of the COMBINED POWER OF ATTORNEY BY ASSIGNEE ... and the DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION ... previously submitted on April 2, 2007, which documents correctly identify the first named inventor and the customer number. It is noted that the correct title is identified on page 1, line 1 of the originally filed application.

As these errors were caused by the U.S. Patent and Trademark Office, it is believed that no fee is necessary. However, if this belief is in error, the commissioner is authorized to charge any fee which may be required, or credit any overpayment to Deposit Account No. 50-0310 (Order No. 067628-5001-US).

Respectfully submitted,

Date: September 24, 2008

By:



Victor E. Johnson, Reg. No. 41,546

MORGAN LEWIS & BOCKIUS LLP  
One Market, Spear Street Tower  
San Francisco, California 94105  
Tel: 415.442.1000  
Fax: 415.442.1001



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/564,802	04/02/2007	3711	1005	187420/US/RFT	33	4

CONFIRMATION NO. 3413

67374  
MORGAN, LEWIS & BOCKIUS, LLP  
ONE MARKET SPEAR STREET TOWER  
SAN FRANCISCO, CA94105

FILING RECEIPT

**COPY**

Date Mailed: 06/12/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Markus ~~Markus~~-Deutsch, Toowong, AUSTRALIA;  
Douglas Joseph Huntington Moore, Wellington  
Point, AUSTRALIA;

**Assignment For Published Patent Application**

Fusion Sport International PTY LTD

**Power of Attorney:** The patent practitioners associated with Customer Number 32940

**Domestic Priority data as claimed by applicant**

This application is a 371 of PCT/AU04/00948 07/14/2004

**Foreign Applications**

AUSTRALIA 2003903621 07/14/2003  
AUSTRALIA 2003905031 09/16/2003

**If Required, Foreign Filing License Granted:** 06/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is  
**US10/564,802**

**Projected Publication Date:** 09/13/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**\*\* SMALL ENTITY \*\***

Title

Sports Training And Testing Methods, Apparatus And System

Preliminary Class

473

L Apparatus

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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### LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

#### **GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under

37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention	TITLE: Sports Training and Testing Methods, Apparatus and System		
<p>As the below named inventor(s), I/we declare that:</p> <p>This declaration is directed to:</p> <p><input type="checkbox"/> The attached application, or</p> <p><input checked="" type="checkbox"/> U.S. Application No. <u>10/564,802</u>, filed on <u>January 12, 2006</u> based on</p> <p><input checked="" type="checkbox"/> Int'l Application No. <u>PCT/AU04/000948</u>, filed on <u>July 14, 2004</u></p> <p><input type="checkbox"/> As amended on _____ (if applicable):</p> <p>I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;</p> <p>I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;</p> <p>I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.</p> <p style="text-align: center;"><b>WARNING:</b></p> <p>Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.</p> <p>All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.</p>			
<p>FULL NAME OF INVENTOR(S)</p> <p>Inventor one: <u>Markus Deutsch</u> Date: <u>28-3-07</u></p> <p>Signature: <u>[Signature]</u> Citizen: <u>Australia</u></p> <p>Inventor two: <u>Douglas Joseph Huntington Moore</u> Date: <u>28-3-07</u></p> <p>Signature: <u>[Signature]</u> Citizen: <u>Australia</u></p> <p><input type="checkbox"/> Additional inventors or a legal representative are being named on _____ 1 _____ additional form(s) attached hereto.</p>			

**COPY**

Client-Matter No. 67762-5001/RFT  
(Former 454692-00003; 187420/US)  
Application No. 10/564,802

**COPY**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Markus Deutsch, et al.

Int'l Application No.: PCT/AU04/000948  
U.S. Application No. 10/564,802

Int'l Filing Date: July 14, 2004

For: Sports Training and Testing Methods,  
Apparatus and System

Examiner: To Be Assigned

Art Unit: To Be Assigned

Confirmation No. 3413

COMBINED POWER OF ATTORNEY BY ASSIGNEE  
AND SUBMISSION UNDER 37 CFR §§ 3.71 AND 3.73(b)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

As an officer of FUSION SPORT INTERNATIONAL PTY LTD ("Assignee"), an Australian Company, I hereby certify that the undersigned is a representative authorized and empowered to sign on behalf of the assignee, and that to the best of assignee's knowledge and belief it is the assignee of the entire right, title and interest in and to the above-referenced patent application by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application identified above,  
☒ 1. a copy of which is attached; or  
☐ 2. which is recorded in the U.S. Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, a copy of which is attached.

Assignee hereby appoints on its behalf the following patent attorneys to prosecute the patent application identified above and to transact all business in the U.S. Patent and Trademark Office connected therewith:

Morgan Lewis & Bockius LLP  
USPTO Customer No. 67374

Pursuant to 37 C.F.R. § 3.71, the assignee hereby states that prosecution of the above-referenced patent application is to be conducted to the exclusion of the inventors.

Send all correspondence relating to this matter to:

Richard F. Trecartin, Esq.  
Morgan Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco, California 94105

Client-Matter No. 67782-5901/RFT  
(Former 454692-00003; 187420/US)  
Application No. 10/564,802

Direct all telephone calls to Richard F. Trecartin, 415.442.1255.

The undersigned hereby authorizes its legal representative to complete the caption of this document, including the Application No. and Filing Date.

The undersigned hereby declares that all statements made herein of its own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 28<sup>th</sup> day of March, 2007.

ASSIGNEE:

FUSION SPORT INTERNATIONAL PTY LD

By

Name:

Title:

Address:

Markus Deutsch  
Director  
4 Forchester St  
Fig Tree Pocket, 4069  
Australia



# DEED OF ASSIGNMENT

THIS ASSIGNMENT made the 9<sup>th</sup> day of July two thousand and four.

**BETWEEN:** **FUSION SPORT PTY LTD**, an Australian Company (ACN 103 526 147), of Level 1, 80 Jepson Street, Toowong, Queensland 4066, Australia (hereinafter called "the Assignor") **OF THE ONE PART**

**AND:** **FUSION SPORT INTERNATIONAL PTY LTD**, an Australian Company (ACN 108 121 295), of Level 1, 80 Jepson Street, Toowong, Queensland 4066, Australia (hereinafter called "the Assignee") **OF THE OTHER PART.**

WHEREAS the Assignor is the beneficial owner of two (2) related inventions, namely:

- (i) a first invention entitled "AUTOMATED SPORTS TRAINING" which is described in the provisional specification which accompanied Patent Application No 2003903621 filed in Australia on 14 July 2003 (the first application) by the Assignor; and
  - (ii) a second invention entitled "SPORTS TRAINING AND TESTING METHODS, APPARATUS AND SYSTEM" which is described in the provisional specification which accompanied Patent Application No 2003905031 filed in Australia on 16 September 2003 (the second application) by the Assignor,
- by virtue of employment of the actual inventors Markus Deutsch and Douglas Moore.

AND WHEREAS the Assignor has agreed to sell, assign, transfer and set over to the Assignee its entire right, title and interest in the said first and second inventions and any Letters Patent which may be granted in Australia together with the right to apply for and obtain corresponding patents in countries outside Australia claiming priority in pursuance of said first and second patent applications.

## NOW THIS INDENTURE WITNESSETH

1. In pursuance of the said agreement and for valuable consideration paid or afforded by the Assignee to the Assignor (the receipt whereof is hereby acknowledged) the Assignor hereby sells, assigns, transfers and sets over to the Assignee its entire right, title and interest in the said invention and any Letters Patent which may be granted in Australia together with the right to apply for and obtain corresponding applications in countries outside Australia claiming priority in pursuance of said first and second patent applications.

2. The Assignor hereby undertakes at the expense of the Assignee to do all acts and execute all documents necessary or desirable for perfecting the title of the Assignee to the first and second inventions and, in the case of default, the assignor hereby appoints the Assignee as its attorney for such purpose.

IN WITNESS WHEREOF the parties hereto have executed these presents and set their hands the day and year above written.

**EXECUTED as a DEED**

EXECUTED by  
**FUSION SPORT PTY LTD**  
in accordance with its Constitution  
in the presence of:

Douglas Moore

Printed Name of Director

Markus Deutsch

Printed Name of Director/Secretary

[Signature]

Director

[Signature]

Director/Secretary

EXECUTED by  
**FUSION SPORT INTERNATIONAL PTY LTD**  
in accordance with its Constitution  
in the presence of:

Douglas Moore

Printed Name of Director

Markus Deutsch

Printed Name of Director/Secretary

[Signature]

Director

[Signature]

Director/Secretary

WITNESSED BY: [Signature]  
4/26/11